

**OPINION
45-153**

July 13, 1945 (OPINION)

INSURANCE

RE: Fraine Barracks

This will acknowledge your letter of July 12, with reference to whether or not the fire and tornado fund is authorized under the law to insure the property known as "Fraine Barracks," until the actual delivery of deed to said property has been obtained.

The 78th Congress of the United States authorized the transfer of Fraine Barracks to the State of North Dakota by Public Law No. 502. Then the State of North Dakota, by the passage of chapter 232 of the 1945 Session Laws accepted said grant. This statute is an emergency measure and was approved by the Governor on the tenth day of March, 1945.

To date the United States has not executed and delivered a deed to these premises to the State of North Dakota and, therefore, your department desires to ascertain whether the State of North Dakota has an insurable interest in the property that should be protected by insurance.

For all intents and purposes, the title to Fraine Barracks now rests in the State of North Dakota, except for the formal evidence thereof a deed from the United States to the State of North Dakota. The delivery of the deed will add nothing to the actual title of the State of North Dakota to this property, but will merely constitute formal and recognized evidence of such title. There are many instances under our law whereby titles vest to real property before the formal requisite of the title by delivery of deed is had. One year after sheriff's certificate issues in a foreclosure, title vests in the sheriff's certificate holder, regardless of the issuance of the sheriff's deed, which is considered merely a ministerial act. Our court has also held in case of a tax title that after the time for redemption has expired, title to the property vests in the county or the tax certificate holder without the issuance of a tax deed.

It is, therefore, the opinion of this office that North Dakota is now the owner of the property known as Fraine Barracks and that it has such an interest in the property known as Fraine Barracks and that it has such an interest in the property as to constitute an insurable interest, and that , therefore, the fire and tornado fund is authorized under the law to insure said property before the actual delivery of a formal deed to the property.

NELS G. JOHNSON

Attorney General